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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,295	12/12/2003	Shinji Ohnishi	03500.017813.	2528
5514 7590 03/23/2009 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
LIU, LIN				
ART UNIT		PAPER NUMBER		
2445				
MAIL DATE		DELIVERY MODE		
03/23/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/733,295

Applicant(s)

OHNISHI, SHINJI

Examiner

LIN LIU

Art Unit

2445

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 7-18.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

L.L.

/Patrice Winder/
Primary Examiner, Art Unit 2445

Continuation of 11, does NOT place the application in condition for allowance because:

1. After carefully reviewing the Applicant's remarks, the following is a list of Applicant's main concerns on the previous Office Action
- a. On page 8, paragraph 3 of Applicant's remarks, Applicant argues that "The applied art of Comp is not seen to disclose or to suggest the features of Claims 7, 11 and 15".
- b. On page 9 paragraph 2 to page 10 paragraph 1 of Applicant's remarks, Applicant argues that "the claimed invention does not recite determining whether the devices are connected using different protocols, but rather, recites that a determination is made whether the devices are connected via different transmission mediums."
- c. On page 10 paragraph 2 of Applicant's remarks, Applicant argues that Ayyagari fails to teach the second part of the claimed limitation.
- d. On page 10, paragraph 3 of Applicant's remarks, Applicant argues that Rappaport fails to teach "a communication apparatus i) detecting a controlled device among a plurality of devices connected to the network and obtaining an IP address of the controlled device, and ii) determining that the communication apparatus and the controlled device are connected via a predetermined transmission medium, if a response corresponding to a request, transmitted via the predetermined communication medium, is received from the controlled device, and determining that the communication apparatus and the controlled device are connected via a transmission medium different from the predetermined transmission medium, if no response to the request is received from the controlled device."
2. With regard to argument a, the examiner would like to address to the Applicant, that claims 7, 11 and 15 were previously rejected under applied art of Ayyagari in view of Rappaport, not Comp.
3. With regard to argument b, the examiner disagrees. Ayyagari specifically discloses that the controlled devices can communicate over different networking protocols, such as BLUETOOTH and UpnP, wherein the BLUETOOTH protocol is over a wireless link transmission medium and the UpnP is over a wired transmission medium. Therefore, the examiner interprets these two transmission mediums as two different transmission mediums as claimed (Ayyagari: page 4, paragraphs 42 & 46).
4. With regard to argument c, the examiner disagrees. First, the examiner would like to address to the Applicant, that the current claim language contains two "if" conditional statements, which presents the claim to only require that one of the conditions is to be met. In the instant case, Ayyagari teaches condition a in page 7, paragraphs 65-66. In addition, for the second part of the claimed limitation (i.e. condition b), Ayyagari also discloses that upon failure to receive a response due to time out from the external device, it would have been obvious to a person of ordinary skill in the art at the time of the invention to realize that both devices are connected using two different protocols, which utilize different transmission mediums (i.e: wireless and wired connections). (Ayyagari: page 7, paragraphs 66-70).
5. With regard to argument d, the examiner disagrees. The secondary reference Rappaport is solely remedied to teach the feature of "displays warning information if the determining unit determines that the communication apparatus and the controlled device are connected via the transmission medium different from the predetermined transmission medium". The above limitations Applicant argues about are taught by Ayyagari.

/Lin Liu/
Examiner, Art Unit 2445